

S. 2275

IN THE SENATE OF THE UNITED STATES

JULY 12, 1965

Mr. DOUGLAS introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To assist in the promotion of economic stabilization by requiring the disclosure of finance charges in connection with extensions of credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Truth in Lending Act".

4 DECLARATION OF PURPOSE

5 SEC. 2. The Congress finds and declares that economic
6 stabilization is threatened by the untimely use of credit for
7 the acquisition of property and services. The untimely use
8 of credit results frequently from a lack of awareness of the
9 cost thereof to the user. It is the purpose of this Act to
10 assure a full disclosure of such cost with a view to preventing

1 the uninformed use of credit to the detriment of the national
2 economy.

3 DEFINITIONS

4 SEC. 3. As used in this Act, the term—

5 (1) "Board" means the Board of Governors of the Fed-
6 eral Reserve System.

7 (2) "Credit" means any loan, mortgage, deed of trust,
8 advance, or discount; any conditional sales contract; any con-
9 tract to sell, or sale, or contract of sale of property or serv-
10 ices, either for present or future delivery, under which part
11 or all of the price is payable subsequent to the making of
12 such sale or contract; any rental-purchase contract; any con-
13 tract or arrangement for the hire, bailment, or leasing of
14 property; any option, demand, lien, pledge, or other claim
15 against, or for the delivery of, property or money; any pur-
16 chase, or other acquisition of, or any credit upon the security
17 of, any obligation or claim arising out of any of the fore-
18 going; and any transaction or series of transactions having a
19 similar purpose or effect.

20 (3) "Finance charge" means the sum of all the charges
21 (including but not limited to interest, fees, service charges,
22 and discounts) which any person to whom credit is extended
23 incurs in connection with, and as an incident to, the exten-
24 sion of such credit.

25 (4) "Creditor" means any person engaged in the busi-

1 ness of extending credit (including any person who as a
2 regular business practice makes loans or sells or rents prop-
3 erty or services on a time, credit, or installment basis, either
4 as principal or as agent) who requires, as an incident to the
5 extension of credit, the payment of a finance charge.

6 (5) "Person" means any individual, corporation, part-
7 nership, association, or other organized group of persons, or
8 the legal successor or representative of the foregoing, and
9 includes the United States or any agency thereof, or any
10 other government, or any of its political subdivisions, or any
11 agency of the foregoing.

12 DISCLOSURE OF FINANCE CHARGES

13 SEC. 4. (a) Except as provided in subsection (b),
14 any creditor shall furnish to each person to whom credit is
15 extended, prior to the consummation of the transaction, a
16 clear statement in writing setting forth, to the extent ap-
17 plicable and ascertainable and in accordance with rules and
18 regulations prescribed by the Board, the following infor-
19 mation—

20 (1) the cash price or delivered price of the prop-
21 erty or service to be acquired:

22 (2) the amounts, if any, to be credited as down-
23 payment and/or trade-in:

24 (3) the difference between the amounts set forth
25 under clauses (1) and (2):

1 (4) the charges, individually itemized, which are
2 paid or to be paid by such person in connection with the
3 transaction but which are not incident to the extension
4 of credit;

5 (5) the total amount to be financed;

6 (6) the finance charge expressed in terms of dollars
7 and cents; and

8 (7) the percentage that the finance charge bears to
9 the total amount to be financed expressed as a simple
10 annual rate on the periodic unpaid balance of the
11 obligation.

12 (b) Any creditor agreeing to extend credit to any per-
13 son pursuant to a revolving or open-end credit plan shall, in
14 accordance with rules and regulations prescribed by the
15 Board and in lieu of the information described in subsection

16 (a) —

17 (1) furnish to such person, prior to agreeing to
18 extend credit under such plan, a clear statement in writ-
19 ing setting forth the simple annual percentage rate or
20 rates at which a finance charge will be imposed on the
21 monthly balance; and

22 (2) furnish to such person, at the end of each
23 monthly period (which need not be a calendar month)
24 following the entering into of any such agreement, a

1 clear statement in writing setting forth to the extent
2 applicable and ascertainable—

3 (A) the outstanding balance in the account of
4 such person as of the beginning of such monthly
5 period;

6 (B) the amount of each extension of credit to
7 such person (including the cash price or delivered
8 price of any property or service acquired by such
9 person) during such period and, unless previously
10 furnished, the date thereof and a brief identification
11 of any property or services so acquired;

12 (C) the total amount received from, or credited
13 to the account of, such person during such period:

14 (D) the finance charge (in dollars and cents)
15 required for such period;

16 (E) the outstanding unpaid balance in the ac-
17 count of such person as of the end of such monthly
18 period: and

19 (F) the simple annual percentage rate or rates
20 at which a finance charge has been imposed on
21 the monthly balance.

22 As used in this subsection, the term “revolving or open-end
23 credit plan” means a credit plan prescribing the terms of

1 credit transactions which may be made thereunder from
2 time to time and under the terms of which a finance charge
3 may be computed on the outstanding unpaid balance from
4 time to time thereunder.

5 (c) If information disclosed in accordance with this
6 section and any regulations prescribed by the Board is sub-
7 sequently rendered inaccurate as the result of a prepayment,
8 late payment, or other adjustment in the credit agreement
9 through mutual consent of the parties, the inaccuracy re-
10 sulting therefrom shall not constitute a violation of this
11 section.

12 REGULATIONS

13 SEC. 5. (a) The Board shall prescribe such rules and
14 regulations as may be necessary or proper in carrying out the
15 provisions of this Act. Such rules and regulations shall (1)
16 include a description of (A) the methods which may be used
17 in determining the "simple annual rate" or "simple annual
18 percentage rate or rates" for the purpose of section 4, and
19 (B) the size of type or lettering which shall be used in
20 setting forth information required by such section, (2) pre-
21 scribe reasonable tolerances of accuracy with respect to
22 disclosing information under such section, and (3) require
23 that such information be set forth in bold type and with
24 sufficient prominence to insure that it will not be overlooked
25 by the person to whom credit is extended. Any rule or

1 regulation prescribed hereunder may contain such classifica-
2 tions and differentiations, and may provide for such adjust-
3 ments and exceptions as in the judgment of the Board are
4 necessary or proper to effectuate the purposes of this Act
5 or to prevent circumvention or evasion, or to facilitate the
6 enforcement of this Act, or any rule or regulation issued
7 thereunder. In prescribing any exceptions hereunder with
8 respect to any particular type of credit transaction, the
9 Board shall consider whether in such transactions compliance
10 with the disclosure requirements of this Act is being achieved
11 under any other Act of Congress.

12 (b) In the exercise of its powers under this section, the
13 Board shall request the views of other Federal agencies
14 exercising regulatory functions with respect to creditors, or
15 any class of creditors, which are subject to the provisions of
16 this Act, and such agencies shall furnish such views upon
17 request of the Board.

18 (c) The Board shall establish an advisory committee,
19 consisting of not more than nine members, to advise and con-
20 sult with it in the exercise of its powers under this section.
21 In appointing members to such committee the Board shall
22 seek to achieve a fair representation of the interest of sellers
23 of merchandise on credit, lenders, and the public. Such
24 committee shall meet from time to time at the call of the
25 Board, and members thereof shall be paid transportation ex-

1 penses and not to exceed \$25 per diem in lieu of subsistence,
2 as authorized by section 5 of the Act of August 2, 1946 (5
3 U.S.C. 73b-2).

4 EFFECT ON STATE LAWS

5 SEC. 6. (a) This Act shall not be construed to annul, or
6 to exempt any creditor from complying with, the laws of any
7 State relating to the disclosure of information in connection
8 with credit transactions, except to the extent that such laws
9 are directly inconsistent with the provisions of this Act or
10 regulations issued thereunder.

11 (b) The Board shall by regulation except from the re-
12 quirements of this Act any credit transactions or class of
13 transactions which it determines are effectively regulated
14 under the laws of any State so as to require the disclosure
15 by the creditor of the same information as is required under
16 section 4 of this Act.

17 CIVIL AND CRIMINAL PENALTIES

18 Civil Penalties

19 SEC. 7. (a) Any creditor who in connection with any
20 credit transaction fails to disclose to any person any informa-
21 tion in violation of this Act or any regulation issued there-
22 under shall be liable to such person in the amount of \$100,
23 or in an amount equal to twice the finance charge required
24 by such creditor in connection with such transaction, which-
25 ever is the greater, except that such liability shall not exceed

1 \$2,000 on any credit transaction. Action to recover such
2 penalty may be brought by such person within one year
3 from the date of the occurrence of the violation, in any court
4 of competent jurisdiction. In any such action, no person
5 shall be entitled to recover such penalty solely as the result
6 of the erroneous computation of any percentage required by
7 section 4 (a) (7), 4 (b) (1), or 4 (b) (2) (F) of this Act to
8 be disclosed to such person, if the percentage disclosed to such
9 person pursuant to this Act was in fact greater than the per-
10 centage required by such section, or by the regulations pre-
11 scribed by the Board, to be disclosed. In any action under
12 this subsection in which any person is entitled to a recovery,
13 the creditor shall be liable for reasonable attorneys' fees and
14 court costs as determined by the court. As used in this sub-
15 section, the term "court of competent jurisdiction" means
16 either any Federal court of competent jurisdiction regardless
17 of the amount in controversy or any State court of competent
18 jurisdiction.

19 Criminal Penalties

20 (b) Any person who willfully violates any provision of
21 this Act or any regulation issued thereunder shall be fined
22 not more than \$5,000 or imprisoned not more than one
23 year, or both.

24 (c) Except as specified in subsection (a) of this section,
25 nothing contained in this Act or any regulation thereunder

1 shall affect the validity or enforceability of any contract or
2 transaction.

3 (d) No punishment or penalty provided by this Act
4 shall apply to the United States, or any agency thereof, or
5 to any State, any political subdivision thereof, or any agency
6 of any State or political subdivision.

7 **EXCEPTIONS**

8 **SEC. 8.** The provisions of this Act shall not apply to—

9 (1) credit transactions involving extensions of
10 credit to business firms, governments, or governmental
11 agencies or instrumentalities; or

12 (2) transactions in securities or commodities in
13 accounts by a broker-dealer registered with the Secu-
14 rities and Exchange Commission.

15 **EFFECTIVE DATE**

16 **SEC. 9.** The provisions of this Act shall take effect upon
17 the expiration of one hundred and eighty days after the date
18 of its enactment; except that section 5 shall take effect
19 immediately.